

JOHN J. GRIFFIN

APRIL 22, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2166]

The Committee on the Judiciary, to whom was referred the bill (S. 2166) for the relief of John J. Griffin, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to waive the time limitations of the Federal Employees' Compensation Act (39 Stat. 742, as amended), and to authorize and direct the Secretary of Labor to consider any claim filed within 60 days after the date of enactment of this act by John J. Griffin, of Charlestown, Mass., for compensation for facial disfigurement resulting from an injury sustained by him on August 15, 1941, while employed by the Department of the Navy as a laborer in the Boston Navy Yard, Boston, Mass.

STATEMENT

According to the report of the Department of Labor, the files of the Bureau of Employees' Compensation of that Department show that on August 15, 1941, Mr. Griffin sustained serious injuries, resulting in facial disfigurement, while in the performance of his duties as a laborer by the Department of the Navy at the Boston Navy Yard, Boston, Mass. At the time of the accident, the Compensation Act did not provide a schedule of compensation for facial disfigurement, except insofar as the earning capacity of an injured employee was affected. While Mr. Griffin was disabled for work as a result of his injuries from August 15, 1941, to April 28, 1943, his absence was covered by benefits for temporary total disability. The record in his case shows that he returned to duty on April 28, 1943, where he

remained until February 25, 1953. Further review of his case resulted in an award for permanent total disability commencing February 25, 1953.

When the Compensation Act was amended on October 14, 1949, a schedule of compensation for permanent partial disability or serious facial disfigurement was established. A time limit of 1 year from the date of the enactment of the amendment was provided within which an election could be made to claim benefits retroactively under this provision. If Mr. Griffin had elected to claim these benefits before October 14, 1950, it appears that he might have qualified for a scheduled award for serious facial disfigurement. Mr. Griffin, however, did not file his claim for a scheduled award for facial disfigurement until April 23, 1952. As the Bureau has no authority to extend the 1-year election period provided by the statute, Mr. Griffin's claim was rejected. An application for review was filed with the Employees' Compensation Appeals Board. In explaining his delay in filing his claim to the Appeals Board, Mr. Griffin stated that he had not been informed of his rights under the act and that he was incompetent to act for himself during the time the 1-year election period provided by the statute was running. The Appeals Board, in a decision on December 7, 1954, affirmed the Bureau's action, holding that there was no evidence of incompetency other than Mr. Griffin's statements that he occasionally suffered from dizziness and partial loss of memory.

The report of the Department of Labor indicates that there are other cases under the Compensation Act similar to the instant one in which the granting of scheduled awards for loss due to the permanent partial disability for serious disfigurement have been precluded by failure to make an election within the period fixed by the 1949 amendment establishing such awards, and therefore enactment of special legislation waiving the time limitations with respect to one claimant would ordinarily discriminate against other claimants similarly situated contrary to the basic purpose of the Compensation Act.

The report goes on to state that the Congress may, however, conclude, after considering all of the circumstances of the present case that special extenuating circumstances exist which properly distinguish it from other cases of this nature, and in that event there would be no objection to the approval of this bill.

It is admitted if Mr. Griffin had elected to claim these benefits before October 14, 1950, it appears that he might have qualified for a scheduled award for serious facial disfigurement. It, therefore, appears under the law at that time that he would have been entitled to consideration. Mr. Griffin explains that he knew nothing of his rights in that regard and that he was incompetent to act for himself during the time the 1-year election period provided by the statute was running. His incompetence, according to his statement, was caused by occasional dizziness and partial loss of memory. The record does not indicate that he was ever informed of his rights under the act, as amended in 1949. Mr. Griffin, according to the Department of Labor report, sustained serious injuries resulting in facial disfigurement while in the performance of his duties as a laborer in the Department of the Navy at the Boston Navy Yard, Boston, Mass.

The committee does not desire to create a precedent, but, nevertheless, believes that cases of this nature should be considered on an ad hoc

basis, and in view of his serious injuries and his lack of knowledge of any benefits that he may have been entitled to, believes that the matter should be referred to the Secretary of Labor for adjudication, and, therefore, recommends that the bill be considered favorably.

The report of the Secretary of Labor to the Senate Committee on the Judiciary is as follows:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 25, 1957.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR EASTLAND: This is in response to your request for my comments on S. 2166, a bill for the relief of John J. Griffin.

S. 2166 proposes to waive the time limitations of the Federal Employees' Compensation Act (39 Stat. 742, as amended), which now preclude payment of compensation to John J. Griffin for an injury sustained by him in the performance of his duty as a civilian employee of the United States.

The files of the Bureau of Employees' Compensation of this Department show that on August 15, 1941, Mr. Griffin sustained serious injuries, resulting in facial disfigurement, while in the performance of his duties as a laborer by the Department of the Navy at the Boston Navy Yard, Boston, Mass. At the time of the accident, the Compensation Act did not provide a schedule of compensation for facial disfigurement, except insofar as the earning capacity of an injured employee was affected. While Mr. Griffin was disabled for work as a result of his injuries from August 15, 1941, to April 28, 1943, his absence was covered by benefits for temporary total disability. The record in his case shows that he returned to duty on April 28, 1943, where he remained until February 25, 1953. Further review of his case resulted in an award for permanent total disability commencing February 25, 1953.

When the Compensation Act was amended on October 14, 1949, a schedule of compensation for permanent partial disability or serious facial disfigurement was established. A time limit of 1 year from the date of the enactment of the amendment was provided within which an election could be made to claim benefits retroactively under this provision. If Mr. Griffin had elected to claim these benefits before October 14, 1950, it appears that he might have qualified for a scheduled award for serious facial disfigurement. Mr. Griffin, however, did not file his claim for a scheduled award for facial disfigurement until April 23, 1952. As the Bureau has no authority to extend the 1-year election period provided by the statute, Mr. Griffin's claim was rejected. An application for review was filed with the Employees' Compensation Appeals Board. In explaining his delay in filing his claim to the Appeals Board, Mr. Griffin stated that he had not been informed of his rights under the act and that he was incompetent to act for himself during the time the 1-year election period provided by the statute was running. The Appeals Board, in a decision on December 7, 1954, affirmed the Bureau's action, holding that there was no evidence of incompetency other than Mr. Griffin's statements that he occasionally suffered from dizziness and partial loss of memory.

There are other cases under the Compensation Act similar to the instant one in which the granting of scheduled awards for loss due to permanent partial disability or serious disfigurement has been precluded by failure to make an election within the period fixed by the 1949 amendment establishing such awards. Therefore, enactment of special legislation waiving the time limitation with respect to one claimant would ordinarily discriminate against other claimants similarly situated, contrary to the basic purposes of the Compensation Act. The Congress may, however, conclude, after considering all of the circumstances of the present case, that special extenuating circumstances exist which properly distinguish it from other cases of this nature. In that event, I would have no objection to the approval of this bill.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

JAMES MITCHELL,
Secretary of Labor.

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